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Sen. Rodney L. Whittemore, Chair
Rep. Mark W. Lawrence, Chair
Joint Standing Committee on Insurance and Financial Services
Maine State Legislature
100 State House Station
Augusta, ME 04333

Written Testimony in Support of L.D. 1161

Distinguished chairs and members of the committee, my name is Ian Adams and I am a senior fellow with the R Street Institute, a free-market think tank headquartered in Washington, D.C that focuses extensively on insurance and financial regulation.

I submit this written testimony in support of L.D. 1161. This bill clarifies that insurers and producers may offer goods or services for free, or for less than fair-market value, so long as receipt of those goods or services is not made contingent on the purchase of any insurance product. This clarification is entirely appropriate within the context of anti-rebating laws, as they have existed over time across the country, and is consistent with the underlying purpose of such laws.

Historically, anti-rebating laws have had three aims: to protect customers from rate discrimination; to avoid undisclosed solvency risks to insurance carriers; and to avoid creating incentives for customers to purchase insurance products they don't need.

At no point were these consumer-protection laws intended to stifle free-market competition. Offering generally available services for free, with no requirement to purchase insurance, does not run afoul of any of the stated rationales for anti-rebating regulation.

1. There is no rate discrimination, as all consumers are entitled to access the same goods or services on the same terms.
2. There is no solvency risk, because the carrier does not offer to discount premiums.
3. Customers feel no undue pressure to buy unnecessary insurance products, as they have access to the goods or services whether they buy insurance or not.

L.D. 1161 also would require upfront disclosure to ensure consumers are made aware that goods and services are not contingent on purchasing insurance. The law would simply clarify that anti-rebating rules distinguish between free goods and services provided only to those consumers who buy insurance, and free goods and services provided on equal terms to the general public. This clarification will liberalize the market without harming the purpose of Maine's anti-rebating law.

Members of this committee will hear from elements of the industry who oppose this bill. Their opposition is motivated by a desire to preserve the protectionist effects that anti-rebating rules have sometimes engendered. But their argument is unmoored from the historical and demonstrable intent of such rules. The purpose of market regulation isn't to pick winners and losers; it's to make the market "regular." A regular market is one that fosters robust competition and that, in turn, benefits consumers.

Sincerely,

Ian Adams
Senior Fellow
R Street Institute

